

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CAROLYN HAWTHORNE,
on behalf of herself and those
similarly situated;

Plaintiff,

v.

NORTHVIEW VILLAGE, INC.
d/b/a NORTHVIEW VILLAGE,
HEALTHCARE ACCOUNTING
SERVICES, LLC, and NORTHVIEW
VILLAGE CENTER LIMITED
PARTNERSHIP;

Defendants.

Case No. 4:23-cv-01711-SRW

**PLAINTIFF’S REQUEST FOR ENTRY OF DEFAULT PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 55(a)**

Plaintiff Carolyn Hawthorne, by and through her undersigned counsel, moves for entry of default against Defendant Northview Village, Inc. d/b/a Northview Village, Healthcare Accounting Services, LLC, and Northview Village Center Limited Partnership (collectively, “Defendants”). In support, Plaintiff states as follows:

1. On May 8, 2024, Defendants’ counsel moved to withdraw from this case. (Dkt. 33). Plaintiff opposed Defendants’ counsel motion to the extent it leaves her unable to prosecute her case without substitution counsel.

2. The court held a hearing on May 24, 2024, and on that same day entered an order, holding this motion in abeyance and ordering Defendants to obtain substitute counsel no later than June 24, 2024. The Court’s order indicated that Defendants’ pleadings could be stricken, and they could be held in default, if they failed to do so. (Dkt. 37).

3. On July 10, 2024, after Defendants failed to obtain substitute counsel, the Court granted defense counsel’ motion to withdraw. (Dkt. 38).

4. Federal Rule of Civil Procedure 55(a) provides that when “a party against whom a judgment for affirmative relief is sought has failed to plead or *otherwise defend*, and that failure to show by affidavit or otherwise, the clerk must enter the party’s default.”

5. Despite proper notice by defense counsel, Defendants have not responded to the Court’s May 24, 2024, Order (Dkt. 37). They have failed to obtain substitute counsel by the Court’s June 24, 2024, deadline to do so.

6. This Court has recognized that “[e]ntry of default is appropriate where a defendant corporation fails to comply with a court order to obtain counsel.” *SSM Managed Care Org., LLC v. Comprehensive Behavioral Care, Inc.*, 2014 WL 241920, at *1 (E.D. Mo. Jan. 22, 2014); *see also R. Maganlal & Co. v. M.G. Chem. Co., Inc.*, 1996 WL 715526, at *2 (S.D.N.Y. Dec. 12, 1996); *Goodman Distrib., Inc. v. Haaf*, 2011 WL 6934265, at *2 (E.D. Mo. Dec. 30, 2011); *Top Sales, Inc. v. Designer Vans, Inc.*, 1997 WL 786254, at *2 (N.D. Tex. Dec. 11, 1997). Limited liability companies and partnerships are treated like corporations for purposes of default. *See Margulis v. Int’l Media, LLC*, 2023 WL 3534173, at *1 (E.D. Mo. May 18, 2023).

7. Thus, Defendants’ failure to timely respond to the Court’s order constitutes a failure to “otherwise defend” within the meaning of Rule 55(a) and warrants entry of default.

In light of the foregoing, the clerk should enter default under Rule 55(a).¹

¹ Once the clerk enters default, Plaintiff intends to move to compel Defendants to respond to her initial discovery requests relating to class certification and damages. Plaintiff requires discovery to properly seek class certification (which she must do before default judgment is granted) and to determine the extent of damages. *See, e.g., Cranor v. Skyline Metrics, LLC*, No. 4:18-cv-00621-DGK, 2018 WL 11437828, at *1-2 (W.D. Mo. Dec. 14, 2018) (following entry of default, Plaintiffs may seek discovery on class certification and damages before filing a motion for default judgment).

DATED: July 16, 2024

Respectfully submitted,

/s/ Michael C. Iadevaia

J. Gerard Stranch, IV

Michael C. Iadevaia*

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** Pro Hac Vice*

*Counsel for Plaintiff and the Proposed
Class*

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2024, a copy of the foregoing document was mailed to the following address, designated by Defendants' former counsel for service, via U.S. Mail, postage prepaid:

Northview Village Inc. d/b/a Northview Village
1600 S. Brentwood Blvd., Suite 200
St. Louis, Missouri 63144

Healthcare Accounting Services, LLC
1600 S. Brentwood Blvd., Suite 200
St. Louis, Missouri 63144

Northview Village Center, L.P.
1600 S. Brentwood Blvd., Suite 200
St. Louis, Missouri 63144

s/ Michael C. Iadevaia
Michael C. Iadevaia